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No. 211

In the Supreme Court of the United States

OCTOBER TERM, 1943

**DELBERT O. STARK, A. F. STRATTON, A. R.
DENTON, G. STEBBINS AND F. WALSH,**
Petitioners

v.

**CLAUDE R. WICKARD, SECRETARY OF
AGRICULTURE OF THE UNITED STATES**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA.**

**MOTION OF THE PETITIONERS TO JOIN MARVIN JONES,
WAR FOOD ADMINISTRATOR, AS A PARTY
RESPONDENT.**

H. BRIAN HOLLAND,
Counsel for Petitioners

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Now come the petitioners, Delbert O. Stark, A. F. Stratton, A. R. Denton, G. Stebbins and F. Walsh, and move that Marvin Jones, War Food Administrator, be joined as party respondent in the above-entitled cause.

The petitioners say there is substantial need for joining said Marvin Jones, War Food Administrator, as party respondent with Claude R. Wickard, Secretary of Agriculture of the United States, for the following reasons: The petitioners' complaint, filed in the District Court for the District of Columbia, sought to enjoin the respondent, Claude R. Wickard, Secretary of Agriculture, from certifying the qualification of any cooperative association of producers to receive payments under Section 904.9 of

Order Number 4, as amended, regulating the handling of milk in the Greater Boston Marketing Area and praying that the Court declare Sections 904.9 (a) to (d) and 904.7 (b) (5) of said Order illegal and void. Executive Order 9334, dated April 19, 1943, filed April 23, 1943, consolidated the Food Production Administration, the Food Distribution Administration, the Commodity Credit Corporation and the Extension Service, together with all their powers, functions and duties, into a War Food Administration, within the Department of Agriculture, to be administered under the direction and supervision of a War Food Administrator, to be appointed by the President and to be directly responsible to him. Executive Order 9334 further provided, in Section 4 thereof, that "In addition to the powers and authority granted by this Order, and in order to carry out its purposes, the Secretary of Agriculture and the War Food Administrator, to the extent necessary to enable them to perform their respective duties and functions, shall each have authority to exercise any and all of the powers vested in the other by statute or otherwise." As a consequence of said Executive Order 9334, it appears that the power to qualify or certify the qualification of any cooperative association of producers for payments under Order Number 4, as amended, regulating the handling of milk in the Greater Boston Marketing Area, may now be exercised in the manner described in the petitioners' complaint by Marvin Jones, War Food Administrator, appointed by the President, as well as by the Secretary of Agriculture. The petitioners are informed and believe and therefore aver that, in fact, Marvin Jones, War Food Administrator, intends to exercise the concurrent powers granted him by Executive Order 9334. As a consequence, the relief prayed for in the petitioners' complaint against the Secretary of Agriculture is also required against the War Food Administrator, due to circumstances which the petitioners could not foresee when said complaint was filed.

In order that the petitioners secure adequate relief in the premises, and that all interested parties be before this Honorable Court, the petitioners respectfully move this Honorable Court to join as party respondent the War Food Administrator, Marvin Jones.

DELBERT O. STARK, A. F. STRATTON,
A. R. DENTON, G. STEBBINS AND
F. WALSH,

Petitioners

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